

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

JOHNNY AL HUNTER, #609870	§	
VS.	§	CIVIL ACTION NO. 4:18cv876
DIRECTOR, TDCJ-CID	§	

ORDER OF DISMISSAL

Petitioner Johnny Al Hunter, a prisoner confined in the Texas prison system, filed the above-styled and numbered petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The case was referred to United States Magistrate Judge Christine A. Nowak, who issued a Report and Recommendation concluding that the petition should be denied. Hunter has filed objections.

Hunter is confined pursuant to a Collin County conviction for the offense of burglary of a building. The present petition does not involve a challenge to his conviction; instead, he contends that he was improperly denied credit for street time and good time after his parole was revoked. Prison officials informed him that he was not entitled to this time because of a 1975 conviction for the offense of aggravated robbery. In both his petition and objections, Hunter erroneously argues that the prison system applied the wrong law in denying him credit for street time and good time. The Fifth Circuit has held, however, that the governing law is the law in effect at the time a parole is revoked. *Rhodes v. Thaler*, 713 F.3d 264, 266 (5th Cir. 2013). The Fifth Circuit further observed that Tex. Gov't Code "§ 508.283 excludes from street-time credit those persons described in § 508.149(a) . . . thus, Rhodes cannot established a violation of his right to due process because, as a person described by § 508.149(a), he is not entitled to street-time credit." *Id.* at 267. The circumstances in *Rhodes* are

identical to Hunter's case. The Magistrate Judge correctly explained that Hunter is not entitled to street time or good time, and his petition and objections to the contrary lack merit.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Hunter to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and Hunter's objections are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. All motions not previously ruled on are **DENIED**.

SIGNED this 19th day of August, 2019.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE